

State of California

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Legislative Change No.**04-23**Bill Number: AB 1338Author: ChavezChapter Number: 04-528Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 18662 and 18668Date Filed with the Secretary of the State: September 15, 2004

SUBJECT: Withholding on California Real Estate/Sales of Personal Residence Withholding

Assembly Bill 1338 (Chavez), made the following changes to California law:**Section 18662 of the Revenue and Taxation Code is amended.**

This act:

- Revises the withholding requirements on corporations with no permanent place of business in California to match the requirements for individuals. This eliminates the corporation waiver process and replaces it with the same statutory scheme in present law for self-certification by individuals.
- Clarifies expressly that transfers of real property will not be subject to withholding if they are contributions to capital of controlled corporations and partnerships, or other sales that do not result in a net recognized gain.
- Adds a provision that will allow a real estate escrow person (REEP), at the REEP's option, to submit to the Franchise Tax Board withheld funds on individual transactions by the 20th day following the month that escrow closed.
- Adds a provision that will grant the department authority to prescribe forms, instructions, notices, or regulations necessary for the efficient administration of the withholding law, including de minimus thresholds.

Section 18668 of the Revenue and Taxation Code is amended.

This act:

- Conforms substantial changes to Section 18662 of the Revenue and Taxation Code.
- Removes an obsolete paragraph.
- Changes the notification provided by the REEP to buyers.

This act is effective on January 1, 2005. The provisions of the act will be operative for dispositions of California real property interests occurring on or after January 1, 2005, and for installment payments received on or after January 1, 2004, for sales on or after January 1, 2003.

This act does not require any reports by the department to the Legislature.

Bureau Director

Date